

Message Text

LIMITED OFFICIAL USE

PAGE 01 SEOUL 05590 260913Z

16

ACTION L-03

INFO OCT-01 EA-11 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 OMB-01 AID-20 IO-14 DRC-01 ACDA-19 NIC-01

/143 W

----- 057156

P 260759Z AUG 74

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC PRIORITY 5564

LIMITED OFFICIAL USE SEOUL 5590

E.O. 11652: N/A

TAGS: PINS PINT KS

SUBJECT: EMERGENCY MEASURES

REF: (A) STATE 185430; (B) SEOUL 5557

1. REPEAL OF EMERGENCY MEASURES 1 AND 4 WAS DONE THROUGH MECHANISM OF AN ADDITIONAL PRESIDENTIAL EMERGENCY MEASURE UNDER AUTHORITY CONSTITUTION ARTICLE 53. FOLLOWING IS ENGLISH TEXT OF MEASURE (TERMED EMERGENCY MEASURE NO. 5 BY SOME PAPERS): QUOTE (1) THE EMERGENCY MEASURE NOS. 1 AND 4 ARE HEREBY RESCINDED.

(2) THIS MEASURE DOES NOT, HOWEVER, EFFECT THOSE WHO ARE ON TRIAL OR HAVE ALREADY RECEIVED PUNISHMENT FOR OFFENSES COMMITTED IN VIOLATION OF THE EMERGENCY MEASURES NOS. 1 AND 4.

(3) THIS MEASURE IS EFFECTIVE FROM 10:00 AM AUGUST 23. 1974. UNQUOTE.

2. AS REPORTED REF B EMERGENCY MEASURE NO. 2

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 SEOUL 05590 260913Z

IS STILL IN FORCE PROVIDING THE STRUCTURE FOR THE

TRIALS AND APPEALS NOW IN PROGRESS. ROKG HAD PREVIOUSLY PROVIDED DOCUMENT DATED AUGUST 12 WHICH INDICATES THAT 196 PERSONS WERE ORIGINALLY INDICTED UNDER MEASURES 1 AND 4. 171 HAVE BEEN SENTENCED TO DATE, AND THEREFORE SOME OR ALL OF THE REMAINING 25 COULD BE CONVICTED BY THE COURTS MARTIAL STILL FUNCTIONING UNDER EMERGENCY MEASURE NO. 2. WE HAVE NO HARD INFORMATION ON DISPOSITION OF THESE CASES.

3. PROVISIONS FOR ARREST, DETENTION, SEARCH OR SEIZURE WITHOUT WARRANT WERE CONTAINED IN ARTICLE 5, MEASURE 1 AND ARTICLE 9, MEASURE 4. THESE PROVISIONS, OF COURSE, HAVE BEEN REPEALED. UNDER NORMAL COURT MARTIAL PROCEDURE A COMMANDING GENERAL WITH COURT MARTIAL AUTHORITY IN HIS CAPACITY AS COURT MARTIAL CONTROL OFFICER CAN ISSUE WARRANTS FOR ARREST (ARTICLE 237 COURT MARTIAL LAW). ARTICLE 12, MEASURE NO. 2 MERELY GIVES THIS AUTHORITY TO THE EMERGENCY COURTS-MARTIAL PROSECUTING OFFICER.

4. SINCE THOSE NOW ON TRIAL OR ALREADY SENTENCED WERE NOT AFFECTED BY LIFTING OF MEASURES 1 AND 4, THE ISSUANCE OF A WARRANT UNDER ARTICLE 12, MEASURE 2 IS NOT RELEVANT IN THEIR CASES. THEY CAN STILL BE HELD WITHOUT WARRANT UNDER PROVISIONS MEASURES 1 AND 4. EMERGENCY MEASURE NO. 2 PROVIDES FOR TRIAL BY COURT MARTIAL OF ANY PERSON WHO VIOLATES ANY PROVISIONS OF THE EMERGENCY MEASURES. THE REMAINING EMERGENCY MEASURE, NO 3 (ECONOMIC), ALTHOUGH INCLUDING SOME PUNITIVE MEASURES, STIPULATES THAT VIOLATORS ARE NOT HANDLED BY EMERGENCY COURTS-MARTIAL. THEORETICALLY ARTICLE NO. 12, MEASURE NO. 2 COULD POSSIBLY BE USED BY THE PROSECUTOR TO ISSUE WARRANTS IN EVENT THERE ARE FUTURE EMERGENCY MEASURES AND IF EMERGENCY MEASURE 2 IS CONTINUED INDEFINITELY.

5. HOWEVER, BLUE HOUSE SPOKESMAN AT TIME OF ANNOUNCEMENT ON REPEAL MEASURES 1 AND 4 TOLD PRESS THAT FURTHER PROSECUTION LIMITED TO THOSE ON TRIAL AS OF AUG 23. BLUE HOUSE CHIEF PRESS SECRETARY ALSO TOLD POL COUNS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 SEOUL 05590 260913Z

PRIVATELY THAT IT IS HIS UNDERSTANDING THAT EMERGENCY MEASURE NO. 2 WILL BE LIFTED WHEN CURRENT COURT MARTIAL PROCESSES, INCLUDING APPEALS ARE COMPLETED.

6. WE THEREFORE DO NOT ANTICIPATE NEW CASES UNDER THESE MEASURES AND SBMKTLE PRACTICAL EFFECT ARTICLE 12 OF MEASURE 2. AS IN PAST, HOWEVER, ROK INVESTIGATIVE AGENCIES CONTINUE TO HAVE WIDE LATITUDE

TO DETAIN SUSPECTS FOR QUESTIONING.
ERICSON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MARTIAL LAW, LAW, EMERGENCY PLANNING
Control Number: n/a
Copy: SINGLE
Draft Date: 26 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: martinml
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974SEOUL05590
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740235-0134
From: SEOUL
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740818/aaaaaort.tel
Line Count: 117
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: (A) STATE 185430; (B) SEOUL 5557
Review Action: RELEASED, APPROVED
Review Authority: martinml
Review Comment: n/a
Review Content Flags:
Review Date: 06 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <06-Aug-2002 by kelleyw0>; APPROVED <05 MAR 2003 by martinml>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EMERGENCY MEASURES
TAGS: PINS, PINT, KS
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005